

EXHIBIT 41

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF
MASSACHUSETTS, et al.

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH;
MATTHEW MEMOLI, M.D., M.S., in his
official capacity as Acting Director of the
National Institutes of Health; U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and DOROTHY
FINK, M.D., in her official capacity as
Acting Secretary of the U.S. Department of
Health and Human Services,

Defendants.

Civil Action No. _____

Declaration of Dorota Grejner-Brzezinska

I, Dorota Grejner-Brzezinska, hereby declare:

1. I am the Vice Chancellor for Research at the University of Wisconsin-Madison (“UW-Madison”), a position I have held since 2024. In this role, I have responsibility for overseeing the university’s research enterprise with more than \$1.7 billion in annual research expenditures. My office also includes administration of 20 cross-campus research and service centers. The mission of the Office of the Vice Chancellor for Research is to advance excellence in research and scholarship, to support our multidisciplinary research centers and institutes, and to provide campus-wide administrative infrastructure to support and advance the research enterprise. Prior to holding this position, I was the Vice President of the Office of Knowledge Enterprise and a Professor of civil, environmental and geodetic engineering at The Ohio State University.

2. As the Vice Chancellor for Research, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by university staff.
3. I am providing this declaration to explain certain impacts on UW-Madison of the National Institutes of Health (“NIH”) Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates*, which UW-Madison became aware of at approximately 5 p.m. on Friday, February 7, 2025. NIH’s *Supplemental Guidance* purports to impose, beginning on Monday, February 10, 2025, a standard indirect costs (IDC) rate of 15% to all grants awarded by the agency. The newly announced rate would apply to “new grant awards and existing grant awards,” giving it retroactive application to research already occurring at the university in reliance on the previously negotiated rate.
4. UW-Madison is Wisconsin’s flagship research university. It operates under the premise that research and education should influence the lives of others beyond the boundaries of the campus. Research at UW-Madison drives innovation related to treating adult and pediatric cancer, Alzheimer’s, diabetes, degenerative neurologic diseases, and more. Further, the research enterprise supports training and development of UW-Madison students. This research is supported by \$513 million from the Department of Health and Human Services (DHHS), which primarily comes from the NIH.
5. UW-Madison has a Negotiated Indirect Cost Rate Agreement (“NICRA”) with DHHS, covering all federal agencies, and effective as of January 17, 2025. The IDC rate in UW-Madison’s NICRA is 55.5%. This rate is composed of 26% for administrative costs and 29.5% for facility costs. Administrative costs are the general costs to administer research,

such as accounting, payroll, and research oversight and are capped by federal law at 26%.

Facility costs include the maintenance and depreciation of the research facilities.

6. UW-Madison's federally negotiated IDC rate has remained steady, with slight increases since 2013; at that time the negotiated rate was 53%, just marginally lower than the current 55.5%. UW-Madison reasonably relies on a generally consistent rate of negotiated IDC reimbursement in making its financial plans.
7. NIH's reduction of UW-Madison's negotiated IDC rate would eliminate approximately \$65 million in funding in the current year, and result in a similar reduction in resources available to support research each year. UW-Madison depends on this source to support its research programs and general infrastructure. The loss of these funds will immediately impact the university's ability to draw critical funds used to pay expenses associated with its research enterprise. This includes the costs to support strict federal regulatory compliance mandated for federally funded research that are intended to, for example, promote national security interests and maintain the nation's competitive edge through export controls and measures to prevent malign foreign influence; protect human and animal participants in research; protect public investments in research; ensure the safe conduct of research involving hazardous biological agents, recombinant DNA, and radiation; and ensure the integrity of research funded by American taxpayers.
8. UW-Madison's campus includes over 17 million gross square feet dedicated to education and general purposes. Many of its buildings are highly technical, and more than half are over 50 years old. Funding from IDC recovery goes directly toward maintenance, utilities, and renovations in these buildings, particularly for updating laboratories where much of the federally sponsored research is conducted. These projects ensure campus laboratories are not

only properly equipped to support sophisticated, cutting-edge research, but to protect the safety of university scientists, students, and the surrounding community and meet federal compliance obligations. State law prevents the use of other sources of unrestricted revenue for campus-funded renovation projects and donor support for infrastructure upgrades is challenging to secure. Therefore, IDC revenue plays a critical role in maintaining the adequacy of our facilities; any revenue loss would only exacerbate our deferred maintenance backlog. The sudden loss of IDC funding imperils not just research space, as research and academic facilities at the University share buildings; reduced maintenance resources will affect the entire university physical environment.

9. Reduction of UW-Madison's IDC rate will also negatively and specifically impact the institution's ability to conduct clinical research related to cancer treatment (including pediatric), Alzheimer's Disease and other types of dementia, cardiac conditions, fetal heart conditions, maternal-fetal health, autism, addiction recovery, diabetes, asthma, adolescent and adult depression and post-traumatic stress, infectious diseases, Huntington's Disease, HIV, conditions affecting nursing home patients, veteran's health, and more. Many research participants are on treatment trials, which means they are patients actively receiving innovative treatments that may impact their disease process or alleviate symptoms. More than 20,000 patients that have been in our care for at least a year are part of this research and the university has had 3,461 new enrollments so far in this fiscal year. IDCs are central among the funds that support infrastructure necessary for the conduct of this research, including laboratories and clinical space for the work, protocol review and secure data storage and transfer systems, and personnel tasked with ensuring regulatory compliance for the protection of human participants and their data. Sophisticated and extensive infrastructure

is necessary to meet federal requirements related to protection of participants' rights, welfare, and safety, and data integrity; data security for participants' confidential and sensitive health information; data management and sharing with clinicaltrials.gov and NIH/other repositories; financial reporting, including effort reporting, to demonstrate appropriate use of federal funds; and progress reporting to federal agencies. The unanticipated and abrupt loss of \$65 million will place the university in the sudden, untenable position of no longer being able to rely on promised federal funding to support the daily activities and operations that support life-saving clinical and translational research at UW-Madison. If alternative sources of funding cannot be secured to fill this void, the reduction in IDC could necessitate programmatic downsizing at the university, including potentially terminating some clinical trials, thereby leaving a population of patients with no viable alternative. At a minimum, the decrease will constrain our growth trajectory in clinical research, preventing us from fully serving the sickest and most vulnerable individuals in the region.

10. In addition to clinical research, NIH-funded fundamental science provides the building blocks to predict, prevent, diagnose, and treat disease. Medicines to treat cancer, neurodegenerative disease, diabetes, and numerous other ailments have been developed by leveraging breakthroughs made in basic science laboratories. Advancements in imaging technologies led by medical physicists now allow doctors to visualize diseased tissues in the body and ultimately treat them. In combination with genomics approaches developed by basic scientists, personalized medicine is now becoming a reality. The IDCs associated with these fundamental studies are essential to supporting the research infrastructure and the personnel who enable scientific discoveries in the lab. Maintaining and equipping buildings

to conduct research is essential to keeping the U.S. at the forefront of knowledge and medical discoveries.

11. The timing of receipt of NIH's announcement—late on Friday, February 7—of its intent to significantly curtail its IDC rate particularly strains the university and its researchers with respect to decisions about applications for grant awards. The submission deadline for NIH Research Training and Career Development (series K) awards is Wednesday, February 12, 2025. These grants are often instrumental in fostering the success of early career scientists. Additionally, the deadline for small research grants (R03), exploratory grants (R21/R33, UH2/UH3), planning grants (R34), dissertation awards (R36), and planning cooperative projects (U34) is Sunday, February 16, 2025. NIH's eleventh-hour change in available funding forces researchers and university administrators to reconsider whether to submit grant applications, many of which they have been fine-tuning for months, given uncertainty about whether the institution can afford to sustain these projects at a 15% IDC rate. The sense of whiplash is particularly acute, given that UW-Madison had finalized its most recent NICRA with DHHS less than three weeks prior.
12. UW-Madison typically draws down funds for NIH-funded projects twice per month and next anticipates drawing funds on or around February 17, 2025. At that time, if allowed to be implemented, the reduced IDC rate will result in UW-Madison experiencing a \$3.9 million loss in IDC recovery for this upcoming draw.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of February, 2025, in Madison, Wisconsin.

/s/ Dorota Grejner Brzezinska
Dorota Grejner-Brzezinska
Vice Chancellor for Research
University of Wisconsin-Madison